

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

CYNTHIA FLEMINGS §
§
vs. § CIVIL ACTION NO. 5:20-cv-00026
§
MACY'S, INC. and MACY'S RETAIL §
HOLDING, INC., and CLINIQUE §
LABORATORIES, LLC §

DEFENDANT CLINIQUE LABORATORIES, LLC'S NOTICE OF REMOVAL

COMES NOW Defendant Clinique Laboratories, LLC pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, and without waiving any of its defenses, hereby gives notice of removal of this case from the 166th Judicial District Court, Bexar County, Texas, to the United States District Court for the Western District of Texas, San Antonio Division, and shows the Court as follows:

I
INTRODUCTION

1. On December 9, 2019, Defendant Clinique Laboratories, LLC was served with Plaintiff, Cynthia Flemings's Original Petition filed in the 166th Judicial District Court in Bexar County, Texas, Cause No. 2019CI214809. Plaintiffs filed suit against Clinique Laboratories, LLC ("Clinique"), Macy's, Inc., and Macy's Retail Holdings, Inc. and all Defendants have been served and filed answers. Plaintiff alleges a premises liability cause of action against all Defendants due to an alleged slip and fall incident that occurred at Macy's store located at La Cantera Mall in San Antonio, Bexar County, Texas. Plaintiff seeks over \$1,000,000 dollars in actual damages as a result of the personal injuries allegedly sustained in the incident.¹
2. Clinique files this Notice of Removal within 30-days of its receipt of Plaintiff's

¹ See Plaintiff's Original Petition attached hereto as Exhibit C-2.

Original Petition pursuant to 28 U.S.C. § 1446 (b)(1).

II.
BASIS FOR REMOVAL

3. Removal is proper in this case pursuant to 28 U.S.C. § 1332(a) because there is complete diversity between the parties and the amount in controversy exceeds \$75,000, excluding interest and costs.

4. Plaintiff Cynthia Flemings alleges to be an individual residing in Texas.²

5. Defendant Macy's, Inc. is alleged to be a Delaware corporation doing business in Texas and is considered to be a citizen of Delaware for purposes of diversity jurisdiction.³

6. Defendant Macy's Retail Holding, Inc., is alleged to be a foreign corporation doing business in Texas with its principal place of business in Cincinnati, Ohio. Macy's Retail Holding, Inc., and is considered to be a citizen of Ohio for purposes of diversity jurisdiction.⁴

7. Defendant Clinique Laboratories, LLC is a foreign corporation with its principal place of business in New York. Clinique is considered to be a citizen of New York for purposes of diversity jurisdiction.⁵

8. Plaintiffs allege that the amount in controversy exceeds \$1,000,000.00, excluding interest and costs.⁶

9. Defendants Macy, Inc. and Macy Retail Holding, Inc. consent to this Notice of Removal as required by 28 U.S.C. § 1446(b)(2)(A).⁷

² See Exhibit C-2, at paragraph 3.

³ See Exhibit C-7 at paragraph 4.

⁴ See Exhibit C-7 at paragraph 5.

⁵ See Exhibit C-7 at paragraph 6.

⁶ See Exhibit C-7 at paragraph 9.

⁷ See Exhibit D.

V.
JURY DEMAND

10. A jury demand has been filed in the State Court action.⁸

VI.

DOCUMENTS FILED WITH THIS NOTICE AND IN SUPPORT OF REMOVAL

11. Clinique hereby files the following documents with the Court:

Exhibit A Civil Cover Sheet;

Exhibit B List of Parties and Counsel;

Exhibit C Index of State Court Documents; and

Exhibit D Written Consent from Defendants Macy's Inc. and Macy's Retail Holding, Inc.

Exhibit E Notice to State Court of Removal to Federal Court

12. Promptly after filing this Notice of Removal, Clinique will file a Notice of Removal to Federal Court with the 166th District Court of Bexar County, Texas, as required by 28 U.S.C. § 1446(d).

VII.
CONCLUSION

BASED ON THE FOREGOING, Defendant Clinique Laboratories, LLC removes this case from the 166th Judicial District Court of Bexar County, Texas, to the United States District Court for the Western District of Texas, San Antonio Division.

⁸ See Exhibit C-2 at Section X. Jury Demand.

Respectfully submitted,

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ATTORNEYS FOR DEFENDANT,
CLINIQUE LABORATORIES, LLC

CERTIFICATE OF SERVICE

A true and correct copy of *Defendant Clinique Laboratories, LLC's Notice of Removal* was served via the Court's EC/MCF electronic filing services, certified mail, return, receipt requested, facsimile and/or electronic mail on the following counsel on this 9th day of January 2020:

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